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HOUSE BILL 3206

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 67, to enact "The Health Insurance Trust Fund Act of 2000".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is "The Health Insurance Trust Fund Act of 2000".

SECTION 2. Tennessee Code Annotated, Title 67, is amended by adding the following new, appropriately designated chapter:

Section 67-__-__01. It is the purpose and intent of the general assembly to encourage and promote the provision of adequate health insurance coverage for all residents of Tennessee in the private marketplace. It is equally the intent of the general assembly that adequate levels of health insurance coverage be made available to residents of Tennessee who are considered uninsurable or uninsured, and that sufficient funding be obtained for the state's TennCare program to accomplish this goal. Finally, it is the intent of the general assembly to equalize the tax burden borne by all entities offering health insurance coverage in the private marketplace. The taxes obtained from these entities shall be used to partially fund the provision of health care coverage to Tennessee residents who are uninsured or uninsurable.

Section 67-__-__02. The following definitions shall apply to this chapter, unless the context otherwise requires:

(1) "Adequate health insurance coverage" means:

(a) Health insurance offered under a health insurance plan subject to regulation by the department of commerce and insurance under title 56 of the Tennessee Code; or

(b) A health insurance plan providing at a minimum the coverage required by a basic health care plan.

(2) "Administrator" shall have the same meaning as set forth at Tennessee Code Annotated, Section 56-6-401.

(3) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(4) "Basic health care plan" means a plan containing the same benefits as contained in either the basic health care plan or standard health care plan approved by the commissioner of commerce and insurance pursuant to Tennessee Code Annotated, Section 56-7-2208, for the Tennessee Small Employer Group Health Coverage Reform Act.

(5) "Commissioner" means the commissioner of revenue.

(6) "Compensation" means the total annual amount paid as wages by an employer to the employer's employees who are residents of this state, as reported to the Tennessee department of employment security for purposes of the Tennessee Employment Security Law.

(7) "Department" means the department of revenue.

(8) "Employee" shall have the same definition as that term has for purposes of the Tennessee Employment Security Law.

(9) "Employer" shall have the same definition as that term has for purposes of the Tennessee Employment Security Law.

(10) "Enrollee" means any individual resident of this state who is eligible to receive benefits from any insurer or other health care plan.

(11) "Evidence of coverage" means any certificate, agreement or contract issued to an enrollee setting out the coverage to which the enrollee is entitled.

(12) "Health insurance" means any hospital or medical expense incurred policy, nonprofit health care service plan contract and health maintenance organization subscriber contracts. "Health insurance" does not include short-term, accident, fixed indemnity, long-term care insurance, disability income contracts, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of the workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(13) "Health insurance plan" means any arrangement by which persons, including dependents or spouses, have access to hospital and medical benefits or reimbursement including group or individual insurance or subscriber contracts; coverage through health maintenance organizations, preferred provider organization or other alternative delivery systems; coverage under prepayment, group practice or individual practice plans; coverage under uninsured arrangements of group or group-type contracts including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not subject to Tennessee premium taxes; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group. "Health insurance plan" includes

coverage through "health insurance", as defined above, and specifically excludes those types of programs excluded under the definition of "health insurance".

(14) "Insurer" means any insurance company authorized to transact accident and sickness insurance business in this state, any hospital and medical corporation, any health maintenance organization and any employer offering health insurance coverage through a health plan that is wholly or partially funded by the employer.

(15) "Person" means any natural or artificial person including, but not limited to, individuals, partnerships, associations, trusts or corporations.

(16) "Premiums" means the gross amount of all dollars collected from an enrollee or on an enrollee's behalf to provide health insurance coverage to the enrollee.

(17) "Premium equivalents" means the annual fee charged an insurer by an administrator, plus the annual amount paid by the administrator or an agent of the administrator for the adjustment or settlement of claims for health services on behalf of an insurer.

(18) "Resident of this state" means continuous physical presence and maintenance of a dwelling place within this state; provided, that absence from the state for short periods of time shall not affect the establishment of a residence.

Section 67-__-__03.

(a) The general assembly hereby declares it a taxable privilege for an employer with five (5) or more employees to conduct business in this state without providing adequate health insurance coverage to the employer's employees who are Tennessee residents, and their spouses and dependents.

(b) Employers furnishing adequate health insurance coverage to ninety-five percent (95%) of their employees who are Tennessee residents, and their

spouses and dependents, during a calendar year shall be exempt from this tax. To obtain this exemption, an employer must present adequate proof of coverage to the commissioner by March 1 of each calendar year. Upon the presentment of such proof, the commissioner with the assistance of the Tennessee department of health shall grant the employer an exemption certificate. This certificate shall be renewed by March 1 of each calendar year, but shall become null and void at any time the employer fails to maintain adequate health insurance coverage for ninety-five percent (95%) of the employer's employees, their spouses and dependents.

(c) Employers failing to maintain adequate health insurance coverage on their employees who are Tennessee residents, and these employees' spouses and dependents, during a calendar year shall pay a privilege tax at the following rates:

(1) One-half of one percent (.5%) of the total annual compensation paid by the employer to the employers' employees if the employer furnishes adequate health insurance coverage for at least ninety percent (90%) of the employers' employees, and their spouses and dependents, during the calendar year.

(2) One percent (1%) of the total annual compensation paid by the employer to the employers' employees if the employer furnishes adequate health insurance coverage for at least eighty percent (80%) of the employers' employees, and their spouses and dependents, during the calendar year.

(3) Two percent (2%) of the total annual compensation paid by the employer to the employers' employees if the employer furnishes adequate health insurance coverage for at least seventy percent (70%) of the

employers' employees, and their spouses and dependents, during the calendar year.

(4) Four percent (4%) of the total annual compensation paid by the employer to the employers' employees if the employer fails to furnish adequate health insurance coverage to less than seventy percent (70%) of the employers' employees, and their spouses and dependents, during the calendar year.

(d) For purposes of this section, an employee or the employee's spouse or dependents are deemed covered if they have obtained adequate health insurance coverage from a source other than the employer, unless the coverage is obtained under the state's TennCare program.

(e) The tax for each calendar year shall be due and payable to the department on April 1 of the succeeding calendar year. This section shall become effective January 1, 2001.

Section 67-__-__04.

(a) The general assembly hereby declares it to be a taxable privilege to engage in the business of an administrator in this state. All administrators doing business in this state shall pay tax on the group amount of all premium equivalents in the amount of one and one-half percent (1.5%).

(b) The premium equivalents of a health plan managed by an administrator shall be excluded from this tax if during the applicable calendar year the insurer of this health plan has paid a premiums tax to the State of Tennessee on the premiums collected for this health plan.

(c) The taxes for a prior calendar year shall be due and payable to the department on March 1 of the succeeding calendar year.

(d) This tax shall apply to an administrator even if the commissioner of commerce and insurance has waived the requirement that the administrator be licensed pursuant to Tennessee Code Annotated, Section 56-6-411.

Section 67-__-__05. Any employer that has one hundred percent (100%) of its employees who are Tennessee residents covered by adequate health insurance coverage, and pays at least eighty percent (80%) of the premium to obtain this health insurance coverage, shall receive a one hundred dollar (\$100) credit per employee against the sum total of the taxes imposed by the Franchise Tax Law, compiled in title 67, chapter 4, part 21, and by the Excise Tax Law, compiled in title 67, chapter 4, part 20. The employer shall also receive a fifty dollar (\$50) credit for each of the employees' spouses and dependents, if the employer pays at least eighty percent (80%) of the premium for the adequate health insurance coverage. These credits shall not be available if adequate health insurance coverage is not furnished by the employer to the employee, or to a spouse or dependent, during the entire period of time the employee is employed by the employer.

Section 67-__-__06. All funds derived from the taxes imposed by this chapter shall be dedicated to paying for the provisions of health care services to Tennesseans in need of such services.

Section 67-__-__07. The commissioner of revenue is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. Unless otherwise previously stated, the provisions of this act shall take effect July 1, 2000, the public welfare requiring it.